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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

INVENTOR: Ausschnitt et al.) EXAMINER: Gordon J. Stock, Jr.
)
SERIAL NO.: 10/716,927) ART UNIT: 2877
)
FILING DATE: November 19, 2003) DATE: July 21, 2004
)
FOR: OVERLAY TARGET AND)
MEASUREMENT METHOD)
USING REFERENCE AND)
SUB-GRIDS)

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Responsive to the Restriction Requirement Office Action mailed June 29, 2004, applicants provisionally elect Group III, claims 23-26, drawn to a method for determining alignment error, classified in class 430, subclass 22, with traverse.

The Examiner has restricted the invention of the subject application to one of the following inventions:

Group I	Claims 1-16	Drawn to a target system for determining alignment error, in class 257, subclass 497
Group II	Claims 17-22	Drawn to a metrology tool system, classified in class 356, subclass 401
Group III	Claims 23-26	Drawn to a method for determining alignment error, classified in class 430, subclass 22.

Applicants respectfully traverse the restriction requirement on the grounds that 35 USC § 121 authorizes restriction only when the claimed invention is "independent and distinct" (emphasis added). Applicants respectfully submit that a search of the subject matter of Group III, claims 23-26, drawn to a method for determining alignment error, would necessarily require a search of the subject matter of Group I, claims 1-16 and Group II, claims 17-22, and separate searches for each group would be unwarranted and duplicative. Reconsideration and withdrawal of the restriction requirement and an action on the merits of all the claims are respectfully requested.



Peter W. Peterson
Reg. No. 31,867

DeLIO & PETERSON, LLC
121 Whitney Avenue
New Haven, CT 06510-1241
(203) 787-0595

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service on the date indicated below as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Name: Barbara Browne Date: July 21, 2004
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Signature: 